

CIVIL SERVICE COMMISSION MINUTES

DECEMBER 20, 2005

A special meeting of the Civil Service Commission was held at 10:30 a.m., in Room 358 of the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas
Barry I. Newman
Francesca Krauel
W. Dale Bailey

Absent was:

Cheryl Fisher

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
William Smith, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

**Approved
Civil Service Commission**

January 18, 2006

**COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
DECEMBER 20, 2005**

10:00 a.m. CLOSED SESSION: Room 400B, 1600 Pacific Highway,
San Diego, California

10:30 a.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San
Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
4			9

COMMENTS: Motion by Newman to approve all items not held for
discussion; seconded by Krauel. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.

A. Commissioner Casillas: CONSIDERATION OF PUBLIC
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) Richard
Pinckard, Esq., on behalf of **2005-09**, appealing an
Order from the Sheriff's Department.

OPEN SESSION AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda
items unless additional time is requested at the outset and
approved by the Commission President.

MINUTES

1. Approval of the Minutes of the regular meeting of December
7, 2005.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Krauel: Solita Kampley, SEIU Local 2028, on behalf of **Laura Torbett**, former Head Staff Nurse, appealing a Final Order of Removal and Charges from the Health and Human Services Agency.

Confirmed.

3. Commissioner Bailey: **Janis Weagant**, former Vector Control Technician II, appealing an Order of Removal and Charges from the Department of Environmental Health.

Confirmed.

DISCIPLINES

Findings

4. Commissioner Casillas: Richard Pinckard, Esq., on behalf of **2005-09**, appealing an Order from the Sheriff's Department.

Sanford Toyen requested to be heard on this matter prior to Commissioner Casillas rendering his recommendations. Mr. Toyen requested that the Commission review Exhibit 9, which is a script of an interview of employee. Mr. Toyen emphasized that this Exhibit proves untruthfulness on the part of employee, which supports Cause II and Cause VI.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of 2005-09, from a written Order of Discipline from the Sheriff's Department was presented to the Civil Service Commission. The Commission appointed Commissioner A. Y. Casillas, one of its members, to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for hearing on November 28, 29 and December 9, 2005.

Based on the Findings and Conclusions reached, it is therefore recommended that the Sheriff's Order of Discipline be reversed; that Employee be awarded back pay, benefits, and interest from the date of the disciplinary action minus any wages he received from outside employment; that the Commission read and approve these findings; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Casillas to approve Findings and Conclusions; seconded by Bailey. Carried.

AYES: Casillas, Krauel, Bailey
NOES: Newman
ABSTENTIONS: None
ABSENT: Fisher

Commissioner Newman stated: "As I have always given substantial deference to Commission Hearing Officers who have direct (and therefore the most valuable and most telling) interface with the appellant; the full record; and all of the witnesses, I can accept the conclusions and the resulting recommendations of my colleague that the specific and detailed charges and specifications levied against the Appellant were either not proved or were too minor to justify termination.

"And, although with somewhat greater difficulty, I further acknowledge the technical legal position that Detention Deputies have neither Peace Officer powers nor responsibilities while off duty.

"What I can neither accept nor understand is the undisputed and troublesome fact that the Appellant, while in a public parking lot, and after having had 3-5 live handgun rounds fired at him and his companion (another Sheriff's Detention Deputy) by two criminals driving away from a verbal confrontation with the off-duty Deputies, did not, as soon as possible, contact local authorities to report this incident with its frightful implications, and offer full, and immediate, cooperation with the local police so as to 1) determine if anyone had been injured by a wayward bullet; and 2) help the police apprehend the culprits before they could harm someone else.

"The Deputy's failure to contact local authorities (with the resulting potential exposure to the safety of the public) precludes my joining my colleagues in supporting this motion and leads me regrettably to vote No."

Commissioner Krauel stated: "On an emotional basis, I completely agree with everything that you've [Commissioner Newman] said. However, I believe that the reason I will be supporting the motion is that the technical point to which you allude is the crux of this case and that in this matter this deputy has no higher duty than any ordinary citizen would have, as I understand the evidence that was introduced at the hearing. That being the case, I have grave concerns about the ability of this deputy to carry out his

duties. He was not charged with those things that would constitute misconduct under the facts that were introduced at the hearing."

SELECTION PROCESS

Findings

5. **David E. Fox**, appealing the Department of Human Resources' (DHR) removal of his name from the employment list for Deputy Sheriff-Detentions/Court Services.
6. **Robert G. Harden**, appealing the DHR's removal of his name from the employment list for Deputy Sheriff-Detentions/Court Services.
7. **Jeannine L. Wisniew**, appealing the DHR's removal of her name from the employment list for Deputy Sheriff Cadet.

RECOMMENDATION: Ratify Item Nos. 5-7. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Items 5-7 ratified.

OTHER MATTERS

Extension of Temporary Appointments

8. Health and Human Services Agency
 - A. 5 Residential Care Workers I (Nora Lecourt, Yaxha Mancillas, Nicholas Mortaloni, Cherie Greiner, Heidi Gonzalez)
 - B. 3 Residential Care Workers II (Dena Lopez, Ernest Marshall, Ericka Ellis-Obichi)

RECOMMENDATION: Ratify

Item 8 ratified.

INFORMATION

9. Dennis M. Grady, Esq., on behalf of **Warren Garrett**, Equipment Operator, withdrawing appeal of an Order of Removal and Charges from the Department of Public Works. (Commissioner Krauel)

Withdrawn.

10. Public Input.

ADJOURNED: 11:00 a.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: January 18, 2006